



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

June 26, 2022

BY CM/ECF

The Hon. Loretta A. Preska
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Abiola Olajumoke*, S4 19 Cr. 291 (LAP)

Dear Judge Preska:

The Government writes to respectfully request an order authorizing the disclosure of tax information in discovery and authorizing use of the same information at trial pursuant to 26 U.S.C. § 6103(i)(4)(A)(i)-(ii), (D). A proposed order is enclosed for the Court's consideration.

As charged in the Indictment, Abiola Olajumoke and his co-defendants participated in a scheme to defraud businesses and individuals by using false and misleading representations and omissions to induce the victims to wire millions of dollars to members of the scheme, including, but not limited to, themselves. On July 11, 2022, a trial will commence against Abiola Olajumoke. The Government expects that the evidence at trial will show that Olajumoke received fraudulent wire transfers into shell companies he created and shell companies he recruited others to create.

On December 8, 2021, the Government sought and obtained from this Court, an order authorizing the Internal Revenue Service ("IRS") to disclose tax refund and payment information associated with Olajumoke, his co-defendants, and shell companies associated with Olajumoke and his co-defendants (the "Tax Order"). On January 19, 2022, the Government produced to the defense the signed Tax Order and accompanying application.

On February 24, 2022, the Government received a production of documents from the IRS in response to the Tax Order (the "Tax Documents"). On February 25, 2022, the Government produced to defense counsel the Tax Documents.

Protected tax information may only be disclosed by the IRS in limited circumstances and, if produced by the IRS to a government entity investigating a federal crime, may only be used in certain circumstances. *See* 26 U.S.C. § 6103(i)(1). Pursuant to 26 U.S.C. § 6103(i)(4)(A)(ii), one of the permitted uses is for discovery "to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure." *See* 26 U.S.C. § 6103(i)(4)(A)(ii). In authorizing disclosure of protected tax information under that provision, "the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in [Title 26, United States Code]." 26

U.S.C. § 6103(i)(4)(D)(ii). Pursuant to 26 U.S.C. § 6103(i)(4)(A)(i), protected tax information may also be introduced at a federal criminal trial “if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party.”

The Government seeks an order authorizing it to introduce the Tax Documents at the trial against Olajunoke subject to the Federal Rules of Evidence. Regarding pretrial disclosure, the Government submits that the Tax Documents were produced pursuant to Rule 16 of the Federal Rules of Criminal Procedure and that disclosure in discovery is appropriate even giving due consideration to the congressional policy favoring confidentiality of tax return information. *See* 26 U.S.C. § 6103(i)(4)(A)(ii), (D). In addition, regarding use at trial, the Government submits that the Tax Documents are probative of a matter in issue relevant to establishing the commission of a crime and the guilt of the defendant. *See* 26 U.S.C. § 6103(i)(4)(D)(i). The Tax Documents are relevant to the charged crimes insofar as they bear on intent and absence of mistake. *See United States v. Adelekan, et al.*, 19 Cr. 291 (LAP), Oct. 21, 2021 Trial Tr. 488 (court finding in trial of co-defendants Oluwaseun Adelekan and Temitope Omotayo); *see also* Dkt. No. 447 (court order issued prior to the scheduled trial of co-defendants Curlten Otidubor and Olalekan Daramola). In addition, the Tax Documents provide direct evidence of the concealment money laundering conspiracy charged in Count Two of the Indictment. *See United States v. Adelekan, et al.*, 19 Cr. 291 (LAP), Oct. 21, 2021 Trial Tr. 488-89. A proposed order authorizing both of these uses is attached to this letter as Exhibit A.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: /s/ Rebecca T. Dell
Rebecca T. Dell
Daniel H. Wolf
Assistant United States Attorneys
(212) 637-2198 / 2337

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
UNITED STATES OF AMERICA	:	<u>ORDER</u>
	:	
-v.-	:	S4 19 Cr. 291 (LAP)
	:	
ABIOLA OLAJUMOKE,	:	
	:	
Defendant.	:	
-----X	:	

Upon the application of the United States, by the United States Attorney for the Southern District of New York, Damian Williams, by Assistant United States Attorney Rebecca T. Dell, dated June 26, 2022;

WHEREAS on or about December 8, 2021, the Government sought and obtained from this Court an order authorizing the Internal Revenue Service ("IRS") to disclose tax refund and payment information purportedly associated with the scheme charged in the Fourth Superseding Indictment (the "Tax Order"). On February 24, 2022, the Government received a production of documents from the IRS in response to the Tax Order (the "Tax Documents");

WHEREAS trial in the above-captioned matter is currently scheduled to begin on July 11, 2022;

IT IS HEREBY FURTHER ORDERED that the Tax Documents are probative of a matter in issue relevant in establishing the guilt of the defendant, *i.e.*, at the forthcoming trial in the above-captioned matter.

SO ORDERED.

Dated: New York, New York
July __, 2022

HONORABLE LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE